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Refugee Reports

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CONGRESS CONSIDERS PRESUMPTIVE REFUGEE STATUS ELIGIBILITY FOR CERTAIN SOVIETS, POLES, AND INDOCHINESE

Both houses of Congress have passed legislation saying that individuals belonging to certain groups--such as Soviet Jews and Evangelical Christians--have a strong likelihood of qualifying for admission to the United States as refugees because their groups have a history of persecution. Differences remain, however, with the House amending the refugee provisions of the Immigration and Nationality Act to include specific groups and the Senate leaving the designation of groups in the hands of the Attorney General. A House-Senate conference must resolve the differences before final passage.

The House bill--as amended and passed on July 17--would establish certain categories of nationals of the Soviet Union, Poland, Vietnam, Laos, and Cambodia as being "presumed to be subject to persecution."

The bill would allow such aliens to be treated "for purposes of admission as a refugee...as subject to persecution without the need to provide independent or additional evidence regarding persecution."

Rep. Bruce A. Morrison (D-Conn.) presented H.R. 2022 as a temporary measure that would "sunset" on September 30, 1990. It would also allow for certain Soviets and Indochinese who have been denied admission to the United States as refugees, and who have entered this country as parolees, to adjust to permanent resident status. That provision would affect between 5,000 and 10,000 people now in parole status.

INS Denials of Refugee Status to Soviet Jews and Evangelical Christians Spurs Bill Much of the floor debate centered on the treatment of Soviet Jews. Most who spoke in support of the bill pointed out that for many years Soviet Jews and other minorities in the Soviet Union were presumed to qualify as refugees as a matter of executive discretion. Then, in August 1988, the Reagan Administration decided to determine each applicant's eligibility for refugee status individually, based on interviews to establish if they have a well-founded fear of persecution.

Denial rates for Soviet Jews rose from 6.7 percent in December 1988 to 36.5 percent in March 1989. The

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denial rate for June was 21.3 percent. Those denied admission as refugees have been offered parole as a means of entering the United States.

Several members of Congress said that although denial rates had increased, the profile of individuals seeking refugee status had not changed. Many people are now being denied, they said, whose circumstances are the same as those of close relatives who earlier entered the United States as refugees.

Morrison said that "while seeming fair on the surface, [the new INS policy] has been disastrous."

He said that the policy has created divided families, huge backlogs, and a bottleneck in the admission of Soviet refugees to the United States.

"The fact of persecution, the inadequacies of parole, and the abrupt change in policy bring into question America's commitment to persecuted religious minorities," said Rep. Hamilton Fish (R-N.Y.). "Although many Soviets are now being allowed to leave, there is no guarantee that this current relaxation of emigration policy will continue."

Is Presumptive Eligibility Discriminatory? On the other hand, Rep. Lamar Smith (R-Tex.) argued that H.R. 2022 would give "preferential treatment in law" to certain groups, which, he said, would be "unprecedented and unfair."

Smith said that the bill discriminates against refugees from Africa and Latin America. "It says to them that U.S. refugee policy is political and Hispanics [or Americans of African descent] don't yet have enough political clout to force open the door for their brothers and sisters."

Morrison contended that H.R. 2022 does not violate the balance of the Refugee Act of 1980. "It merely implements within the ambit of the Act procedural efficiencies with respect to individuals about whom we have knowledge as a group."

Rep. Romano L. Mazzoli (D-Ky.), who was ousted earlier this year as chairman of the refugee subcommittee that Morrison now heads, disagreed. "The establishment of a presumption that certain people coming from certain areas and certain lands are automatically refugees is, I think, really a step backward." Mazzoli said it would return the United States to the pre-1980 position that gave preference to refugees fleeing communist lands. "The reason we passed the 1980 [Refugee] Act was to get away from nation-specific determinations of who was or was not a refugee."

Other Groups Added Mazzoli warned that the measure would "repoliticize the whole situation of who is or who is not a refugee" and that "it encourages and almost invites other groups similarly situated to apply for this kind of presumption."

The bill, which originally applied only to certain Soviets and Indochinese, was indeed amended to include other groups.

Rep. David E. Bonior (D-Mich.) rose to say, "If we do not specifically include Orthodox and Catholic Ukrainians in this bill, they may encounter the same problems currently facing Soviet Jews facing immigration to the United States."

Then, Rep. Stephen J. Solarz (D-N.Y.) introduced an amendment to specify in law 24 categories of Vietnamese, Laotians, and Cambodians--such as ethnic Chinese, Buddhist monks, and Catholics--as presumed to be persecuted. These groups are the categories listed by the Immigration and Naturalization Service as groups likely to be persecuted from the 1983 "Worldwide Guidelines for Overseas Refugee Processing."

Solarz said, "The purpose of this amendment is to put into law the very strong presumption that if one fits into one of these categories, which were devised by the INS itself, he or she is entitled to refugee status."

He added that in recent months there has been "a precipitous decline" in the number of Indochinese applicants approved for admission as refugees by the INS (see Recent Developments, page 7).

Smith entered the debate again, saying that he had warned in his opening statement that the bill could set off "an avalanche of legislation to grant special, preferential refugee and immigration status to select groups" that would "demolish the framework of the 1980 Refugee Act to handle refugee applications in a consistent and even-handed manner."

Smith said, "With the offering of this amendment, I think I hear the first rumblings of that avalanche."

He continued, "I would anticipate that

there would not be a single group in the special refugee categories that would not come forward with evidence of greater need and unconscionable administrative backlogs in the processing of applications for their group." He asked, "Is the House going to take over the administration of the Nation's refugee program?"

Rep. Barney Frank (D-Mass.) answered that "none of us think the ideal way to legislate is for Congress to deal category by category with groups of potential refugees. But it was a series of failures on the part of the administration and some unfortunate politicization that occurred which led us to this point."

After both the amendments for the various Indochinese groups and Catholic and Orthodox Ukrainians passed, another amendment was introduced by Rep. Gerald D. Kleczka (D-Wisc.) to include aliens who are or were nationals of Poland. "Soviet Jews, Vietnamese protestors, Polish Solidarity activists, they all have one thing in common," said Kleczka. "They spoke out against their oppressive Communist government at great risk to themselves and their families."

Rep. Jack Brooks (D-Tex.), chairman of the Judiciary Committee, said, "Let me say to my distinguished friends of Polish ancestry that some 200 years ago my ancestors fought with the Polish generals who came to this country, helped them win our freedom in the late 1700's. I think it is only fair that we give some of those brothers and sisters an opportunity to come here now and see no difficulty with that amendment."

The Polish amendment passed. The amended bill then passed by a 358-to-44 margin.

How Many? Smith concluded the debate by asking, "What is the cost of all these amendments? What is the cost of H.R. 2022? It is likely to be several billion dollars. Second, how many people are we talking about? How many immigrants? Again, we do not know, but we are probably talking about many hundreds of thousands of immigrants."

The Polish amendment would include any Pole currently in or outside of Poland who would register with a U.S. embassy for the overseas refugee processing program before the September 30, 1990 cut-off date.

At the head of the line would be about 35,000 Poles in Western Europe approved or waiting for INS interviews. Any of the 40,000 Poles in West Germany, 6,000 in Austria, and 5,000 in Italy--many of whom have been rejected for asylum by those countries--would also be eligible for the U.S. refugee resettlement program.

In addition, there are about 2.2 million Soviet Jews and more than 600,000 Evangelical Christians in the USSR. The U.S. embassy in Moscow estimates that as many as 100,000 could register in 1989 and 250,000 more in 1990. This does not include Soviet Jews and Christians currently in the Vienna/Rome refugee resettlement pipeline.

There are also 12 to 15 million Ukrainian Orthodox Christians and 6 to 9 million Ukrainian Catholics in the USSR, according to U.S. government estimates. Under the Morrison bill, any of them could also potentially register with the U.S. embassy in Moscow before September 30, 1990 and be eligible for refugee processing.

In addition, a government source pointed out that by giving presumptive eligibility to many categories of Indochinese, H.R. 2022 could move members of those groups with no connections to the United States to the head of the line. This, the government source suggested, could possibly come at the expense of other Indochinese refugees currently waiting in camps who have family connections in the United States, but who are not members of designated category groups.

Senate Gives Nod to Certain Soviets and Vietnamese Senate action on behalf of potential Soviet and Vietnamese refugees came in the form of an amendment to S. 1160, the State Department authorization bill.

Introduced by Frank R. Lautenberg (D-N.J.), the amendment was a compromise based on an earlier bill he had introduced (S. 893) that had been closer to the language of Morrison's bill. The compromise worked out with Sens. Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.) represented a more limited response than the House version.

Unlike the House bill, the Lautenberg amendment would not amend the Refugee Act by having Congress add the various category groups into the law. The Administration, rather, would be directed to develop "stan-

dard profiles" of groups "with a strong likelihood of qualifying for admission as refugees due to well-established histories of persecution," which would serve as a reference in refugee status determinations.

The Attorney General is directed to include Soviet nationals who are Jewish, Evangelical Christian, Ukrainian Catholic, and Ukrainian Orthodox, as well as Vietnamese in the Orderly Departure Program who have received Letters of Introduction, but who do not immediately qualify for immigrant visas.

Individuals belonging to these profile groups could qualify for refugee status by demonstrating any of a number of acts of mistreatment directed against them personally or by demonstrating "acts of persecution committed against other persons in his or her standard profile, in his or her geographical locale, or acts, regardless of locale, which give rise to a well-founded fear of persecution."

The amendment also provides an opportunity for Soviets and Vietnamese who entered the United States under parole after having been denied refugee status to adjust to permanent residence status.

Kennedy said that the Lautenberg bill would "buy time" for the Attorney General to improve the procedures for handling Vietnamese and Soviet refugee applications. He credited Attorney General Dick Thornburgh with implementing improvements in processing, saying that previously denied cases are being reviewed and overturned. He said that rejection rates, which had climbed to 35 percent, had fallen to about 20 percent.

The standard profiles would "ease the standard of proof for individual applicants as well as provide a factual background for adjudicating applications," Kennedy said.

Kennedy addressed concerns about the impact of such legislation on the Refugee Act. He recalled that the 1980 Act "moved us away from the blanket favoritism of one group over another in the refugee program, and brought our law into the international mainstream." He added, "This amendment is careful to provide the procedures which Soviets and Vietnamese need, while respecting the need for equal treatment for all refugees."

No one spoke in opposition to the Lautenberg amendment, which passed by a 97-to-0 vote.

Update

▫ Some 8,000 Cambodian refugees believed to have been in the Khmer Rouge-controlled Phum Thmei camp have arrived at Site K, an UNBRO-administered camp in southeastern Thailand, following reported shelling of Phum Thmei in early July by Vietnamese forces. Phum Thmei was reportedly hit by several hundred artillery rounds, according to the July 9 Bangkok Post.

Refugee workers, noting that the Khmer Rouge did not block the flight of the refugees to Site K, expressed hope that more refugees in Khmer Rouge-controlled areas might be able to leave. However, other reports suggest that the Khmer Rouge have moved refugees from internationally supervised camps, such as Bo Rai, to "hidden camps" along the border, to avoid their transfer to Site K, set up by the Thai authorities in May to improve international access to refugees who had been under Khmer Rouge control.

An estimated 50,000 Cambodians are living in the hidden Khmer Rouge camps, according to the July 3 Bangkok Nation. Western relief workers say some 23,000 refugees have "disappeared" from Khmer Rouge camps under international supervision to the hidden border during the past year, according to a July 6 report from Agence France Presse.

▫ Eight Cambodian refugees were killed during an artillery attack by Vietnamese on Site 8, a Khmer Rouge-controlled camp on the Thai-Cambodian border, between July 22-23, according to the July 25 New York Times.

▫ Immigration and Naturalization Service Commissioner Alan C. Nelson resigned his post as of June 26. His deputy, James L. Buck, has been named Acting Commissioner. The likely new nominee for the position will be Gene McNary, the chief executive of St. Louis County, Missouri.

The resignation of Harold Ezell, the controversial INS western regional commissioner, has also been accepted.

▫ A compromise legal immigration bill (S. 358) that would increase the number of pro-

fessional and skilled immigrants admitted to the United States passed the Senate by an 81-to-17 margin on July 13.

The bill was initially opposed by Asian and Hispanic groups because they felt that, as originally drafted by Sens. Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.), it would have favored skilled, English-speaking Western European immigrants at the probable expense of family reunification for other nationalities. The bill was amended, however, to ensure that the number of immigrant visas for family members who are not immediate relatives would not fall below 216,000. Although there is a theoretical ceiling for family unity immigrants of 480,000, immediate relatives would continue to be admitted without restriction.

Another 150,000 places are reserved for "independent" immigrants, who qualify because of skills and education, including 54,000 who would be admitted according to a point system. Within the "independent" visas can also be found a "millionaires club" of 4,800 conditional entry visas for aliens investing $1 million and creating ten jobs. The Senate bill would allow at least 630,000 immigrants into the United States for each of the next three years.

Refugee admissions were not included as part of the immigration "ceiling."

The bill would prevent undocumented aliens from receiving federal benefits, but would allow close relatives of aliens newly legalized under the 1986 Immigration Reform and Control Act to stay and work in the United States, although their status would not be legalized.

Chinese nationals would be permitted to stay legally in the United States through June 1993, according to another amendment, unless the President certifies that conditions in China have improved sufficiently for their safe return.

The bill would also double the current 5,000 immigration ceiling from Hong Kong.

An amendment introduced by Simpson that would give preference to English-speakers was defeated by a 56-to-43 vote.

The bill now goes to the House, where hearings are expected later this year.

° The Immigration Reform and Control Act (IRCA) has resulted in 35 percent fewer apprehensions of undocumented aliens along the southern border than would have been anticipated without the law, according to a new report from the Urban Institute.

A total of 1.3 million undocumented aliens were apprehended between November 1986, when the bill became law, and September 1988--700,000 fewer than would have been caught had IRCA not become law, according to the study. The statistical method used to determine the impact of IRCA attempted to segregate the new law from other factors, such as Mexican population growth, economic conditions, and seasonal changes.

° On June 19, President Bush signed Presidential Determination 89-15, certifying that "an unforeseen refugee emergency exists" and increasing the worldwide refugee admissions ceiling for FY 89 from 94,000 to 116,500, in order to accommodate the admission of 22,500 additional refugees from Eastern Europe and the Soviet Union. The revised regional allocations are:

Africa	2,000
East Asia, First Asylum	28,000
East Asia, Orderly Departure	22,000
Eastern Europe/USSR	50,000
Latin America/Caribbean	3,500
Near East/South Asia	7,000
Unallocated Reserve	4,000

° On July 3, the Federal Register published final notice of available funds for grants under the FY 89 Targeted Assistance Grant (54 FR 27940). The targeted assistance program funds support services for counties with high concentrations of refugees. More than $34 million was appropriated in FY 89 for targeted assistance, of which $12 million has been awarded to local communities. The July 3 announcement concerns the remaining $22 million.

° On June 21, 1989, the Senate Immigration and Refugee Affairs subcommittee held a hearing on S. 458. The DeConcini/Moakley bill, as it is known, would provide temporary safe haven in the form of extended voluntary departure (EVD) for Salvadorans and Nicaraguans already in the United States. S. 458 is scheduled for a vote by the full Judiciary Committee on July 27.

H.R. 45, the companion House bill, was reported without recommendation to the House Judiciary Committee.

Recent Developments

GENEVA CONFERENCE URGES REPATRIATION OF VIETNAMESE BOAT PEOPLE

[This article was written by Iain Guest, a journalist who attended the Conference.]

The two-day International Conference on Indochinese Refugees ended in Geneva on June 14 with agreement on an ambitious plan of action aimed at curbing the exodus of asylum seekers from Vietnam, and promoting voluntary repatriation back to Vietnam.

The meeting was billed as the first "emergency" session on Indochinese refugees since governments met in Geneva in July 1979, and--like the 1979 meeting--it took place against a background of pirate attacks on refugees boats, increased arrivals, and pushbacks out to sea.

° For the first time since 1981, the number of boat people leaving Vietnam rose above 45,000 in 1988. Several brutal pirate attacks have been reported so far this year. On April 16, more than 100 refugees were murdered in one incident when pirates set fire to their boat and methodically rammed those who had jumped overboard.

° Malaysia reportedly instituted a policy in May of barring boat people from landing in that country. More than a dozen boats carrying nearly 900 people are said to have been pushed out to sea.

° More than 9,270 boat refugees arrived in Hong Kong in May alone. Almost all of them were from northern Vietnam, with few family ties to those in resettlement countries. The influx has placed enormous pressure on Hong Kong and badly rattled the nerves of the British government. The savage repression in China, which has raised the prospect of thousands of Chinese seeking asylum in Hong Kong, adds to the colony's tension. Hong Kong now bundles back illegal immigrants from China within 24 hours, irrespective of whether they claim a fear of persecution.

Faced with Increased Arrivals, ASEAN Nations Called for Conference The initiative for the Geneva meeting came from ASEAN governments and the British colony of Hong Kong, which had expressed concern at the increase in arrivals. Thailand pushed boats out to sea early last year in an apparent attempt to discourage new arrivals, while Hong Kong began "screening" asylum seekers on June 16, 1988 to determine who were "genuine" refugees.

The meeting ended by endorsing a "Comprehensive Plan of Action," drawn up over the previous ten months by officials from the office of the UN High Commissioner for Refugees (UNHCR) in conjunction with ASEAN governments. The plan contains six elements:

1. A commitment by Vietnam to "deter" the exodus through a program of information.

2. An increase in the Orderly Departure Program (ODP), which was launched following the 1979 conference. Some 23,000 Vietnamese left for the United States under the program in 1988.

3. A reaffirmation by governments not to turn asylum seekers away. Of the main countries of first asylum in Southeast Asia, only the Philippines has ratified the 1951 Convention on the Status of Refugees, which commits them not to forcibly repatriate (refoule) refugees. The fragility of this provision was underscored by reports following the conference that Malaysia was continuing its policy of pushbacks.

4. The establishment of a region-wide program of "status determination," or screening, under UNHCR supervision, to distinguish genuine refugees from economic migrants. Thailand and Malaysia followed the example of Hong Kong and introduced screening earlier this year.

5. The resettlement of so-called "long-stayers"--Vietnamese refugees who have languished for years in camps because they fail to meet criteria of resettling governments.

6. The repatriation of persons who are "screened out", or determined not to be refugees. Progress on repatriation will be reviewed by governments at an October meeting just prior to the Executive Committee meeting of the UNHCR. If no progress has been made, "alternative measures"--including compulsory repatriation--may have to be considered.

Vietnam Discusses Reeducation Camp Prisoners, Boat Refugees with United States In addition to a series of set speeches, several important bilateral meetings also took

place. The delegations of Vietnam and the United States met briefly and agreed to resume talks on the fate of former inmates of "reeducation camps," many of whom were associated with the United States prior to the fall of Saigon in 1975. Nguyen Co Thach, Vietnam's Foreign Minister, said that 94,000 former prisoners have been released, and that only 120 remain in camps.

The two sides also discussed Cambodia. Thach told a press conference that the United States had asked Vietnam to pressure the government of Phnom Penh to be more conciliatory toward Prince Sihanouk in discussions about the future government once Vietnam withdraws. This, he said, was impossible as long as the United States was "giving arms" to the Prince's guerrillas.

British Press Vietnam to Allow Return of Boat People Denied Refugee Status in Hong Kong Thach also met with Britain's then-Foreign Secretary, Sir Geoffrey Howe. Worried by the sudden influx of Vietnamese boat people into Hong Kong, the British and Hong Kong authorities have insisted that those who are refused refugee status by the Colony should be returned to Vietnam, if necessary by force.

Sir Geoffrey told a press conference that he had pressed Thach to agree to this. Earlier, he warned the conference that Hong Kong might be forced to suspend asylum if the international community did not do more to ease the pressure. "Hong Kong would not take this step lightly. But it is fast approaching the point where there will be no other option," he said.

This put Britain sharply at odds with the Bush Administration, which has made it clear that forcible repatriation would be unacceptable both to the U.S. Congress and the American people--a point that was reiterated by Lawrence S. Eagelburger, U.S. Deputy Secretary of State.

Eagelburger also obliquely criticized the condition of holding centers in Hong Kong that have received unfavorable publicity: "Clearly, voluntary repatriation is both appropriate and feasible. But such return must be truly voluntary and not the result of intolerable conditions of detention."

There was considerable anticipation about how Thach would respond. In his statement, he reiterated Vietnam's position--no return unless it is voluntary. He also made it clear that Vietnam will make no major gestures to its neighbors until there is a renewal of Western aid: "The time has come to put an end to the policy of hostility and of economic blockade of Vietnam and broaden cooperation on the basis of mutual interest. This is how the problem of illegal emigration for economic reasons could be solved at its source." So far, 178 boat people have returned to Vietnam from Hong Kong.

During the meeting, Britain and Vietnam agreed to follow-up discussions on a regular basis, which the British presented as a major achievement.

Numerous press reports following the conference indicated that, in fact, Britain had agreed to step up economic aid, and that Vietnam had expressed general agreement with repatriations of all Vietnamese who are screened out by Hong Kong.

Many nongovernmental organizations remain concerned at the proposals for screening and repatriation. Since it introduced screening on June 16, Hong Kong has accepted less than 10 percent of those screened, and some worry that governments will continue to use screening and detention as a way of deterring any new arrivals.

If so, cautioned one observer, genuine refugees could find themselves awaiting return to Vietnam--whether they like it or not.

HOUSE REVIEWS VIETNAMESE REFUGEE POLICY

The House Subcommittee on Immigration, Refugees, and International Law held a hearing on June 28 to examine the impact of the International Conference on Indochinese Refugees held in Geneva in mid-June (see previous story) and to look again at the Orderly Departure Program (ODP) as an alternative to clandestine boat departures from Vietnam.

Robert L. Funseth, acting director of the Bureau for Refugee Programs at the State Department, testified that "the Orderly Departure Program did not become the truly viable alternative to clandestine departure its authors envisaged." Funseth said that more than 160,000 people have left Vietnam legally during the past decade through ODP

(of whom more than 75,000 have resettled in the United States), but that hundreds of thousands have continued to flee Vietnam by boat during the same period.

Funseth summarized the Geneva conference's Comprehensive Plan of Action. He said that Amerasians, former re-education camp detainees, and others eligible for ODP would have full access to regular departure procedures as a result of agreements forged in Geneva.

"Although the conference in Geneva reached agreement on actions and procedures to be taken to encourage Vietnamese not to resort to dangerous boat departures," Funseth said, "agreement was not reached on how to handle cases of Vietnamese rescued at sea." Funseth said that the United States would like to see the automatic resettlement guarantees provided for boat people rescued at sea replaced by refugee determination screening.

Hope for Re-education Camp Detainees and Amerasians Funseth said that the United States was "gratified" to learn that the Vietnamese re-education camp population has been reduced from 7,000 persons in 1985 to about 200 at the present time. However, he said, "We remain profoundly disappointed that only 600 detainees and 2,400 of their family members...have been allowed to leave Vietnam."

Funseth announced that Vietnam agreed at the Geneva conference to resume talks on re-education camp detainees next month in Hanoi.

ODP files currently include applications from 18,000 detainees who have served five years or more in re-education camps. Together with their family members, they represent about 72,000 people wishing to leave through the ODP.

Funseth noted "considerable success" with the resettlement of Amerasian children. He said that more than 6,000 children fathered by Americans and 10,000 relatives have been resettled so far. (See Recent Developments, Projects and Programs.)

Funseth said that the United States expects to admit more than 10,000 Amerasians and their family members in FY 89, and that the budget request for FY 90 includes funding for another 13,000. He said that a transit center is now being built for Amerasians in Ho Chi Minh City.

Refugee Status Determination for the ODP Since February, ODP applicants not qualifying for immigrant visas have been interviewed to determine whether they meet the refugee definition for admission to the United States. Since that time, 66 percent of those interviewed for refugee determination have been denied refugee status. This does not include Amerasians. Those denied refugee status have been approved for admission under the Attorney General's "public interest parole" authority. The overall rate of approval, as refugees or parolees, stands at 85 percent.

Delia Combs, assistant commissioner for Refugees, Asylum, and Parole at the Immigration and Naturalization Service (INS), said that the decision to adjudicate Soviet and Vietnamese applications according to a uniform standard, "equitably applied worldwide," was taken "at the highest levels of the previous Administration." (See lead story.)

Combs said that the United States currently does not have access to large numbers of people, such as former re-education camp prisoners, who do not have close family links to the United States. About 60,000 of the current immigrant visa petitions on file at the American embassy in Bangkok are seeking to emigrate through the ODP to join family members already in the United States. Termed "Category I," she said, this group "is first and foremost a category for family reunification under immigration-like procedures and requirements."

Rep. Chester Atkins (D-Mass.) criticized the new refugee adjudication process, saying, "I do not believe it was necessary or appropriate to scrap that program by administrative fiat." He said, "All Vietnamese interviewees should have presumptive refugee status." Atkins testified that since interviews take place within Vietnam and use government interpreters, the "atmosphere is not conducive to complete candor" about discussing their fears of persecution.

Saying that the situation in the Soviet Union was "vastly different," Atkins commented that the attempt to adopt worldwide adjudication standards there made sense, "but not necessarily in every instance."

Rep. Bruce A. Morrison (D-Conn.), who chaired the hearing, questioned Funseth and Combs to determine if the change in policy in February toward case-by-case determina-

tion of refugee status was a legitimate departure from National Security Directive 93 (NSDD-93), which, in 1983, had designated certain groups of Indochinese as "likely targets of persecution."

Combs said that NSDD-93 established categories of people who are likely targets of persecution, but not "a presumption" of persecution. "A person who is a likely target of persecution is not then automatically a refugee," she said.

Morrison asked, "If a person is established to be a likely target of persecution, what more does a person need to do to establish a well-founded fear of persecution?"

Combs said that "that person must establish that he or she has been persecuted."

"Oh, no! That's not the standard," said Morrison. He quoted the Refugee Act definition of a refugee as a person either who had suffered persecution in the past, or who has a well-founded fear of persecution. Morrison chided Combs, saying, "I am tired of INS representatives who come here and don't know the law."

Equitable Treatment Morrison asked Funseth why Vietnamese need this special treatment in contrast to Cambodians. Funseth said that the Geneva conference was addressing the particular issues arising from fleeing Vietnam.

"So the answer is, Vietnam is special because people leave by sea?" Morrison asked. Funseth said that was the case.

Morrison then asked, "Shouldn't we have the same concern for boat people from Haiti who have no ODP?"

Funseth said that Haitians were asylum seekers, not refugee applicants, and added that they were outside his area of responsibility.

Morrison said that the United States should consider designating Haitians as a population of "special humanitarian concern" for purposes of refugee admissions. "That would be consistent with the treatment of Vietnam."

CONGRESS STEPS UP PROTECTION FOR CHINESE STUDENTS

Both houses of Congress have signaled strong bipartisan assurances to Chinese students in the United States that they will not face return to their homeland against their will.

Legislative action also indicates that members of Congress feel the Administration did not go far enough in offering protection for Chinese currently in the United States. On June 6, Attorney General Dick Thornburgh, in response to an earlier announcement by President Bush, ordered the INS "to take all steps necessary to defer enforcing the departure" of all nationals of the People's Republic of China (PRC) who were in the United States on June 6.

Questions quickly arose about work authorization, adjustment of status, and the standing of the requirement of J-visa exchange students to return to their home country for two years upon expiration of their visas before being permitted to adjust their status to permanent residents (about 80 percent of the Chinese students are J-visa holders).

"Deferred Enforced Departure" (DED, or "deferred departure") by itself relates narrowly to the U.S. government not seeking to deport PRC nationals who are deportable or excludable, and allowing those under DED to work. PRC nationals now here on nonimmigrant visas could choose to abandon those visas in order to gain DED status and the work authorization it allows. But, by doing so, they are conceding that they are deportable whenever DED status expires. For those who retain their nonimmigrant status--so that they are not deportable and have opportunities to change their visa status--employment would continue to depend on whether it is permitted by the nonimmigrant visa they hold.

According to INS directives to its field offices, requests from PRC nationals for extensions or changes of nonimmigrant status are to be expedited, and requests from PRC students for permission to work off-campus "are to be given every consideration."

But many Chinese students expressed reservations about the limited protections offered by deferred departure. Haiching Zhao, a postdoctoral fellow at Harvard University, raised several concerns in testimony at a July 20 hearing before the House Subcommittee on Immigration, Refugees, and International Law. "The Administration's program leaves us in a state of limbo," he said. "With only one year's guaranteed protection, even if conditions

in the PRC remain unsafe for our return, we would remain unsure of how long the protection would last."

Zhao said that despite the good intentions of the Administration, the format of deferred departure "could expose us to even greater harm upon our return and could pose a danger to our relatives living in the PRC" because it requires individuals to indicate an unwillingness to return to the PRC. "For the Chinese government," he said, "such a declaration will mark us as 'traitors' and 'counter-revolutionaries.'"

Senate Passes Chinese Safe Haven Measure On July 11, the Senate unanimously passed an amendment to the Simpson-Kennedy immigration bill (see Update) allowing PRC nationals to remain until June 5, 1993, unless the President certifies to Congress that it is safe for them to return before that time. If the bill becomes law, the two-year foreign residency requirement for J-visa holders would be waived, and Chinese nationals with F "student", J "exchange visitor", or M "vocational student" visas, would be presumed to be in continuous lawful residence and permitted to work. After June 5, 1993, PRC nationals would be allowed to adjust to temporary resident status.

House Considers Chinese Safe Haven as Part of Broader Safe Haven Measure Since becoming chairman of the House refugee subcommittee, Rep. Bruce Morrison (D-Conn.) has been trying to fashion a legal structure for response to such emergency situations, and has added generic language for "temporary protected status" to another bill specific to Nicaraguans and Salvadorans (see Refugee Reports, Vol. X, No. 6). At the beginning of the July 20 hearing, which he chaired, Morrison said he was looking not only to protect Chinese students immediately, but to provide "a framework for the future" that could be applied to other nationalities as well.

Before the subcommittee was a bill (H.R. 2712) introduced by Rep. Nancy Pelosi (D-Calif.) with 240 cosponsors calling for a waiver of the return residence requirement for J-visa holders. Also under consideration was a measure drafted by Morrison (H.R. 2929) to protect Chinese nationals within his temporary protected status framework.

Morrison commented on the strong bipartisan show of support for the Chinese students. "This is the first time I've seen such a broad bipartisan group calling for more people to come to the United States," he said. He recalled that "too many of our debates on immigration have not had the generous and humanitarian tone we hear today."

New Math: DED=EVD Morrison said that the administration's deferred departure response left many questions unanswered, and several members of Congress questioned whether or not it was a legal status.

DED is not a legal status, as explained by Paul Virtue, acting general counsel for the INS, but rather "the exercise of prosecutorial discretion not to enforce certain provisions of the INA [the Immigration and Nationality Act]."

When pressed to explain how "deferred enforced departure" differed from "extended voluntary departure" (EVD)--a withholding of deportation granted periodically to certain nationalities at the discretion of the Attorney General--Virtue answered, "There is no distinction in practical effect with EVD."

Virtue said that the INS preferred the new nomenclature because "EVD was an unfortunate term" given its similarity to the term "voluntary departure" and because there is current litigation on EVD.

When asked how many people had taken advantage of deferred departure status, Virtue said that of the INS field offices that report by computer (55 percent), a total of 2,121 PRC nationals had been located who had been issued Orders to Show Cause for deportation or exclusion proceedings. Of that number, only 4 persons had come forward.

Virtue said that the INS estimates that there are currently about 40,200 Chinese students in the United States, of whom about 32,000 are on J visas, 8,000 on F visas, and about 200 on M visas.

Morrison and Pelosi Bills Reported to Judiciary Committee Without dissent, both the Pelosi and Morrison bills were reported to the Judiciary Committee. In combination, the effect of the two bills would be to: 1) waive the return requirement for J-visa holders; 2) accord temporary protected status and work authorization with enact-

ment of the bill (unlike DED alone, which only works as a last resort after a person's visa has expired); 3) grant temporary protected status for a three-year period; and 4) suspension of temporary protected status would depend on certification by the President that it is safe for PRC nationals to return.

After the hearing, Zhao told Refugee Reports that he was very pleased with the outcome. "If this bill passes and is signed by President Bush," he said, "we are free."

I DO NOT WANT TO FOLLOW MY FATHER'S FOOTSTEPS

Yang Chao was one among the scores of Chinese students packing the House subcommittee hearing room. Every seat in the large hearing room was occupied, and standees were packed three and four people deep along the side walls.

A sophomore at Princeton University, Chao said he was "very, very pleased" with the outcome of the hearing. He also commented on witnessing the process of democracy in action. "At home you could never go into a room and listen to the government. You could never express your ideas directly to the Congress."

As for himself, Chang said, "If the situation changes, I will definitely go back. If the situation stays the same, the only safe way to return will be with a U.S. passport." He doubted many students would return without such protection.

"If there is no plan to punish returning students, why do they videotape our demonstrations?"

Chang is well aware of the dangers. His father, who he describes as having been a brilliant student, said that the Cultural Revolution was wrong. "For that one word, he was jailed for ten years," Chang said. "He was totally crushed down."

"I do not want to follow in my father's footsteps."

JEWEL S. LaFONTANT SWORN IN AS U.S. REFUGEE COORDINATOR

Opposing forced repatriation of refugees, visiting places where refugees are located to ensure their fair treatment, and strengthening corporate America's giving to refugee assistance were some of the key priorities Ambassador-at-Large Jewel S. LaFontant, the new U.S. coordinator for refugees, cited at her July 20 swearing-in.

LaFontant, who was selected by President Bush to succeed Jonathan Moore, was confirmed by the Senate on June 15. She is the first woman to hold the nation's top refugee post. While LaFontant noted U.S. opposition to forced returns of refugees, she also indicated that the United States has to be "open and honest" about the question of refugees vs. economic migrants.

"We can't translate someone into a refugee who isn't one," LaFontant told Refugee Reports.

Noting that federal assistance funds for refugees have been drying up, the new Coordinator--a senior partner in the Chicago law firm of Vedder, Price, Kaufman, Kammholz, and Day prior to her appointment--also said that the federal government must look to corporations in its search for refugee assistance sources.

LaFontant, who has served on the boards of several companies, said, "I plan to use my clout to bring Fortune 500 companies to help. I am shocked that they haven't done more." She added that stronger efforts must be made to "educate the private sector on the needs of refugees and the positive things they bring to our shores."

SERVICES TO REFUGEES WORLDWIDE THREATENED BY UNHCR FUNDING CRISIS

The Office of the United Nations High Commissioner for Refugees (UNHCR) is facing one of the worse funding crises in the organization's history. A shortfall of more than $150 million may lead to severe cuts in the services UNHCR provides to refugees around the world.

UNHCR is totally dependent on donations for its operations. The United States,

Japan, West Germany, and other western governments provide most of its funding. This year's shortfall is not a result of donors giving less, but of UNHCR needing more funds to deal with new refugee emergencies and repatriation programs.

"UNHCR has only one option in the face of refugee needs," says Eugene Dewey, Deputy High Commissioner for Refugees. "We must respond." During 1988, 700,000 new refugees were added to the millions already receiving UNHCR assistance. That figure includes 350,000 Somalis who sought refuge in Ethiopia, another 210,000 Mozambicans in Malawi, and 70,000 more Afghans who fled to Pakistan. "Emergencies cannot be foreseen," adds Dewey, "but UNHCR must react positively and effectively to them."

The peace process now underway in Namibia enables more than 41,000 refugees to return home, but that positive development has also proven expensive. UNHCR launched a special appeal to finance the Namibian repatriation, and met with a generous response. But, says Dewey, when governments respond to a special appeal, they generally do so with funds that would otherwise have gone to UNHCR's regular programs, causing a shortfall in those.

Because of the present crisis, UNHCR will have to cut a number of services. Although what the organization terms "survival" services--food, water, health, and shelter--will not be affected, its "solution" services may be seriously cut back. Many of UNHCR's protection, education, and counseling programs will go. This means that many refugee children will go without even primary education, that all initiatives towards self-sufficiency will be abandoned, and that special protection and assistance needs for the most vulnerable groups, particularly women, will go unmet.

Dewey, who recently spent several days in the United States seeking added funds for UNHCR, told Refugee Reports: "The results of conflicts and the results of peace are happening to us all at once. Refugee flows continue, yet we can also foresee new possibilities for repatriation of refugees--Kampucheans, Angolans, Mozambicans--in the coming years. Therefore, the funding problem is not just now. It will continue into the next decade. UNHCR alone cannot bear the costs. The international community as a whole--including international organizations, NGOs [nongovernmental organizations], and governments--must face up to this situation. We must solve this together."

ONLY 10,500 AMERASIAN ADMISSIONS EXPECTED IN FY 1989, BUT 45 PERCENT DUE IN SEPTEMBER

The rate of Amerasian admissions thus far in FY 89 concerns U.S. resettlement agencies throughout the country. "The pace is a lot slower than we'd hoped for when we were planning the program a year ago," says Marta Brendan, National Contact Point for Amerasian Resettlement. "We're also disappointed--in terms of domestic resettlement needs--that 4,800 will be admitted in one month," she added.

In the first three quarters of FY 89, only 3,347 Amerasians and their families arrived in the United States. "During July and August, there will be about 1,000 admissions each month, and in September there will be 4,800 admissions," Brendan said. "That means that approximately 10,500 will have been admitted in FY 1989."

For agencies providing services to the arriving Amerasians and their families, the low number of admissions is a problem because they have only received funding for services specific to Amerasians for one year, and they expected those funds to serve a greater number of people.

In FY 1989, the Office of Refugee Resettlement (ORR) made funds available for services to Amerasians through InterAction. Grants of $35,000 could go to "cluster sites" chosen for Amerasian resettlement. So far, InterAction has awarded 24 grants totaling $840,000. Not knowing if funds will be available in FY 90--less yet FY 91--the agencies fear that Amerasians arriving after September 1989 will not benefit from the services that they have worked to make available.

"Our one-year funding has allowed a system for serving Amerasians to be put in place," says Michael Kocher, director of the Amerasian resettlement program at InterAction, "It would be a great shame if there were no additional funding for cluster sites next year, when even more Amerasians are expected than arrived this year."

Perspectives Differ on Whether Present

Admissions Rate is a Problem The rate of admissions to the United States is tied to the rate of departure from Vietnam. One of the reasons it is slow is that the rate of departures from Vietnam to the processing center in Bataan (the Philippines) is lower than originally expected. The Vietnamese government wants Vietnamese carriers to be used for the flights to the Philippines, but is unable to provide enough carriers to meet the need.

The Amerasian Homecoming Act called for all Amerasians and their families to leave Vietnam by March 1990. That clearly will not happen. At the present rate, the estimated 30,000 Amerasians/families remaining in Vietnam will not even be out of that country before the end of FY 90, according to Steve Goose, legislative aid to the Act's sponsor, Rep. Robert Mrazek (D-N.Y.).

Officials at the State Department do not appear to view the current rates of departures/admissions as a problem. "It's fair to say that there have been some severe transportation problems in the past," says Jim Williard, recently appointed division chief for Southeast Asian admissions in the Bureau for Refugee Programs (BRP). But, he adds, the Vietnamese government's agreement to allow Philippine carriers to transport Amerasians "relieved a part of the problem, and it's moving much more smoothly now." Ricki Gold, also at BRP, says that if all the Amerasians are not out by the end of FY 90, they can be brought out under the regular Orderly Departure Program.

Although the Amerasian Homecoming Act set out to remove ceilings on Amerasian admissions, according to Gold, "Amerasian admissions are limited by our budget." The BRP expects 15,000 Amerasian admissions in FY 90 and another 15,000 in FY 91. Gold says that 15,000 admissions are as many as the State Department can fund. She adds that in FY 89 Congress earmarked $15 million for Amerasian admissions, but that at a cost of $2,000 per person, even bringing in 10,500 by the end of FY 89 will have cost $21 million.

Gold also notes that "There are a lot more Amerasians [and families] than we originally thought there were. At the time of the Act, we estimated 30,000. Now we think there may be 40,000 to 50,000. If we get 30,000 out [of Vietnam] by the end of FY 90, that's what we set out to do."

September Bulge Worries Agencies The large number expected to arrive in the United States in September, 4,800, represents 45 percent of the total anticipated admissions for FY 89. Coming in the month during which resettlement agencies traditionally receive the largest number of refugees, the Amerasian "bulge" in September poses logistical problems for many agencies. Kocher says: "I hope that the fourth quarter bulge can be evened out, if not for this year, at least for the future." Kocher adds that he understands the difficulties in getting the Amerasians and their families out of Vietnam, but that "from a domestic resettlement perspective, the Amerasians would be better served if the flow was more even."

The bulge is not a product of the transportation problem. It has arisen because the State Department wanted to admit as many Amerasians/families as possible before September 30 in order to use available FY 89 numbers and funds. To accomplish this, says Gold, the State Department laid on special charters in March and April to get people to Bataan in time to complete their training and depart for the United States by September. That brought the number of departures to more than 2,000 per month. Since then, however, the special charters have been discontinued, and the departure rate has fallen significantly.

Projects and Programs

AGENCIES' COOPERATIVE EFFORT IS KEY IN PROJECT FOR AMERASIANS

When refugee resettlement agencies in the Washington, D.C. metropolitan area heard that their area was likely to be the largest cluster site for Amerasian "free cases" coming to the United States, they decided to work together to meet the special needs of the Amerasians and their families. The result of this cooperative effort is "Project Homecoming," a program to serve Amerasians that the agencies hope will pave the way for cooperation in serving other groups in the future.

Project Homecoming coordinator Joanie Chase, describing the project's history, told Refugee Reports that several of the

resettlement agencies working in Maryland, the District of Columbia, and Northern Virginia had previous experience in working with Amerasian families. Realizing that funds would be limited and that the best way to help the Amerasians would be to pool their knowledge and resources, the agencies formed a consortium to develop a project to serve the more than 560 Amerasians and relatives who were expected to settle in the area.

Initially, the consortium had four member agencies: Associated Catholic Charities (USCC); International Rescue Committee (IRC); Lutheran Social Services (LIRS); and Travelers Aid/American Council for Nationalities Service (ACNS). Later, two more agencies, Christian Refugee Outreach/Church World Service (CWS) and World Relief Refugee Service (WR), joined the consortium.

Since the consortium was formed before details of federal funding were clear, the consortium sought state funds to get Project Homecoming underway. With a grant from the state of Maryland, the Consortium was able to hire a project coordinator and begin planning its services. According to Pauline Dunn, of the ACNS affiliate in Washington, "When it came time to write the proposal for the InterAction grant, there was a great deal of cooperation. Everyone benefited--particularly the Amerasians."

That cooperation, according to Michael Kocher, director of the Amerasian resettlement program at InterAction, is typical of what has happened at cluster sites throughout the country.

Chanh Tran, a sixteen-year-old Amerasian, with Project coordinator Joanie Chase. Chanh and his nineteen-year-old sister live on their own in Silver Spring, Maryland.
Photo: USCR/Hiram A. Ruiz

Counseling Program Targets Vulnerable Families Project Homecoming has two components, the counseling program and the volunteer program. Since the available funds do not permit an intensive program of services to all families, the project has been designed so that all Amerasians and their families benefit from some services, such as participation in the volunteer program, while those families identified as being particularly vulnerable receive more individualized attention through a ten-session, intensive counseling program called "Life Adjustment Skills Counseling."

Caseworkers from each of the consortium agencies receive combined training in the special problems and needs of Amerasians. According to LIRS resettlement coordinator Ruth Anne Dawson, "The families referred to the counseling program are generally those in which family members have low self-esteem or low motivation, where severe relationship problems exist, or where family members lack any formal education."

The first of the ten sessions is with the whole family, and its primary goal is trust-building. As Dawson told Refugee Reports, "Trust and confidence are the first things you have to get--and it's tough." The next three sessions are with the Amerasians themselves. The caseworker and the youth examine the youth's life in Vietnam and in the United States, examine positive experiences and frustrations, and

try to enhance the youth's self-esteem.

The next three sessions focus on the mother. The caseworker strives to understand the mother, her plans, fears, hopes, and disappointments, helps her build self-esteem, and reinforces with her the progress she has made. The final three sessions, with the family as a whole, help the family prepare for the problems they may face.

The Volunteer Program All Amerasians are referred to the volunteer program, whether they are involved in the counseling program or not. The volunteer program itself has several components, including the big brother/big sister program, group tutoring, social activities, and volunteer support program.

The big brother/big sister program, despite its name, does not target the Amerasian youth, but--like the counseling program--the family as a whole. The volunteer may work particularly closely with the Amerasian member of the family, but might also focus on the mother or a sibling, depending on the family's need.

When the families are newly arrived, the volunteers help them get oriented in the local community, showing them where to shop, how to use the metro, and what to do in case of an emergency. Later, they concentrate on helping the family with their English. Chase says that "though the families often refer to the volunteers as 'our teacher,' in time, that changes to 'our friend.'"

The volunteers in the group tutoring program receive training in teaching English and hold regular sessions with various families at one time. Other volunteers help to organize social activities for the families.

Volunteers pledge to work with the family for up to three hours a week for a year. According to Chase, this helps the family and the volunteer to develop a relationship, and to provide the family with continuity during their first year in the United States. Chase is particularly pleased that of the 50 volunteers currently involved in the big brother/big sister and group tutoring programs, 40 percent are Asian (mostly Vietnamese). The project is currently concentrating on recruiting more volunteers.

For further information on Project Homecoming, contact Joanie Chase, Project Coordinator, Project Homecoming, 1504 St. Camillus Drive, Silver Spring, MD 20903. (301) 434-5980.

At a picnic sponsored by the Univ. of Maryland Vietnamese Association, volunteer Laura Sanders talks with De Thi Ngoc Le (right) and her Amerasian daughter Loan, 19.
Photo: USCR/Hiram A. Ruiz

INDOCHINESE REFUGEE CAMP POPULATION BY ETHNIC GROUP, AS OF APRIL 1989

COUNTRY	CAMP	LAO	HIGHLAND	KHMER	VIETNAMESE	TOTAL
HONG KONG	Argyle St. Camp 3	0	0	0	1,323	1,323
	Cape Collinson	0	0	0	680	680
	Chi Ma Wan	0	0	0	3,098	3,098
	Erskine	0	0	0	1,376	1,376
	Green Island	0	0	0	826	826
	Hei Ling Chau	0	0	0	2,930	2,930
	Other	0	0	0	534	534
	Whitehead	0	0	0	3,957	3,957
	Kai Tak Worth	0	0	0	2,330	2,330
	Pillar Point	0	0	0	1,709	1,709
	San Vick	0	0	0	2,553	2,553
	Sham Sui Po	0	0	0	4,923	4,923
	Tuen Mun	0	0	0	2,830	2,830
	VNP Detention Center	0	0	0	166	166
	Victoria Remand Cen.	0	0	0	48	48
	SUBTOTAL	0	0	0	29,183	29,183
INDONESIA	Galang-1st. Asylum	0	0	0	2,124	2,124
	Medevacs	0	0	0	2	2
	Quarantine	0	0	0	423	423
	Tanjung Pinang	0	0	0	8	8
	SUBTOTAL	0	0	0	2,557	2,557
MALAYSIA	Marang	0	0	0	1,093	1,093
	Pulau Bidong	0	0	0	13,790	13,790
	Sungei Besi	0	0	0	5,870	5,870
	SUBTOTAL	0	0	0	20,753	20,753
PHILIPPINES	Bataan GOP	0	0	0	10,072	10,072
	Bataan RPC	453	427	193	6,509	7,572
	Palawan	0	0	0	5,433	5,433
	PRTC	0	0	0	511	511
	SUBTOTAL	453	427	193	22,525	23,588
THAILAND*	Phanat Nikhom RPC	780	5,691	165	0	6,636
	Ban Nam Yao	0	1,729	0	0	1,729
	Ban Thad	0	0	0	6,830	6,830
	Ban Vinai	188	34,303	0	0	34,491
	Bangkok Transit	15	13	20	45	93
	Chiang Khan	77	15,001	0	0	15,078
	Kaocheng	0	0	1,164	0	1,164
	Khao-I-Dang	0	0	12,989	0	12,989
	Napho	15,796	428	0	0	16,224
	Phanat Processing	857	604	1,299	5,124	7,884
	Phanat Transit	36	6	36	1,606	1,684
	SUBTOTAL	17,749	57,775	15,673	13,605	104,802
GRAND TOTAL**		18,202	58,202	15,866	98,062	182,732

Source: U.S. State Department, Bureau for Refugee Programs
* Thailand numbers do not include more than 300,000 Cambodian "displaced persons" on the Thai-Cambodian border.
** Grand total includes: 446 Vietnamese refugees in Japan; 236 in Korea; 430 in Macao; and, 327 in Singapore.

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